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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,711	07/17/2002	Zhiping Shan	415000-695	2568
27162	7590	05/21/2004	EXAMINER	
CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN 5 BECKER FARM ROAD ROSELAND, NJ 07068			MEDINA SANABRIA, MARIBEL	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/070,711	<b>Applicant(s)</b> SHAN ET AL.	
	<b>Examiner</b> Maribel Medina	<b>Art Unit</b> 1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15, 17-20 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 13, 15, 17-20, 25, 27, 26, 27, 27, 28, 27, 29, 27, 30, 27, 31, 27, 32, 27 and 33 is/are rejected.
- 7) ☒ Claim(s) 2-8, 10-12 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Response to Arguments**

1. Applicant's arguments with respect to claims 1, 3-5, 8, 9, 11-14, and 16-22 have been considered but are moot in view of the new ground(s) of rejection.

### **Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9, 13, 15, 17, 18, 19, 20, 25, 27, 28, 29, 30, 31, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,811,612 (Girotti et al).

Girotti et al disclose a product comprising an inorganic oxide and zeolite beta including mesopores and micropores, wherein the micropores are present from 18 % to 28 %, by pore volume, based on micropores and mesopores (See Catalysts A, B, C, and D; col. 11, line 1 to col. 12, line 20; and the claims).

Girotti et al disclose that the inorganic oxide can be any of aluminum oxide, magnesium oxide, natural clays and that the particles in a size of less than 0.8 mm (the term “less than 0.8mm” clearly embraces the instantly claimed values of 5 to 1500 nm).

Girotti et al further disclose the process of producing and inorganic oxide that contains micropores and micropores, wherein the inorganic oxide and zeolite beta are mixed in the presence of acetic acid (instantly claimed compound that binds to the inorganic oxide by hydrogen bonding) and reacted to form a micropores and mesopores containing compound. The

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limitations of claims 17, 18 are disclosed by Girotti et al in the col. 11, line 1 to col. 12, line 20)

and thee limitations of claims 19 and 20 are inherent properties of the product of Girotti et al.

No difference is seen between the instantly claimed invention and Girotti et al.

**Allowable Subject Matter**

4. Claims 2, 3, 4, 5, 6, 8, 10, 11, 12, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: Girotti et al fail to disclose or suggest that the compound that binds to the inorganic oxide by hydrogen bonding is a triethanolamine, sulfolane, tetraethylenepentamine, diethylglycoldibenzonate or a glycol; fail to disclose or suggest the mixture further comprising a micropore forming agent, and that the inorganic oxide is an amorphous silicate.

**Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maribel Medina whose telephone number is (571) 272-1355.

The examiner can normally be reached on Monday through Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Maribel Medina  
Examiner  
Art Unit 1754

  
STANLEY S. SILVERMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700